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|--|---|---------------------|
| In re Application of:                      | : |                     |
| MOVASSAGHI, Mehrzad                        | : | DECISION ON RENEWED |
| U.S. Application No.: 10/530,014           | : | PETITION UNDER      |
| PCT No.: PCT/CA2003/001514                 | : | 37 CFR 1.47(b)      |
| International Filing Date: 01 October 2003 | : |                     |
| Priority Date: 01 October 2002             | : |                     |
| Attorney's Docket No.: 1491-148            | : |                     |
| For: MULTIPLE-PLATE COMBUSTOR              | : |                     |

This decision is issued in response to the "Renewed Petition Under 37 CFR 1.47(b)" filed 31 May 2006. No additional petition fee is required.

**BACKGROUND**

In a decision mailed on 31 March 2006, this Office dismissed the petition under 37 CFR 1.47(b) filed 16 December 2005 for failure to satisfy all the requirements for a grantable petition. Specifically, petitioner had failed to provide the following: (1) adequate proof that the inventor refused to execute the application; (2) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (3) adequate proof of petitioner's proprietary interest in the application; and (4) a statement the petition was necessary to preserve the rights of the parties or to prevent irreparable damages.

On 31 May 2006, applicant filed the "Renewed Petition Under 37 CFR 1.47(b)" considered herein.

**DISCUSSION**

The renewed petition includes supplemental materials addressing the defects in the earlier petition. These materials are considered below with respect to each of the outstanding petition requirements.

**1. Adequate Proof Of The Inventor's Refusal To Sign The Application:**

The renewed petition includes a "Supplemental Declaration Of Clifford W. Vermette" regarding the inventor's refusal to execute the application papers. This statement confirms that a copy of the complete application papers was before the inventor during the meeting at which the

inventor indicated his refusal to execute the declaration for the present application. In combination with the previously filed materials, this statement provides an adequate showing that the inventor has refused to execute the application. This element of a grantable petition is therefore satisfied.

**2. Declaration By The 37 CFR 1.47(b) Applicant On Behalf Of The Inventor**

With respect to this requirement, petitioner has now submitted a "Declaration And Power Of Attorney" document indicating that it is executed by "Fama Holdings Ltd as representative for Mehrzad Movassaghi." However, the "Declaration And Power Of Attorney" document does not indicate on its face the name or title of the person who executed the declaration on behalf of Fama Holdings. Because the "Declaration And Power Of Attorney" does not identify the person who executed the declaration on behalf of Fama Holdings Ltd, the declaration cannot be accepted in satisfaction of this outstanding requirement. Petitioner is still required to submit a declaration in compliance with 37 CFR 1.497 properly executed on behalf of the non-signing inventor by the 37 CFR 1.47(b) applicant, that is, executed by a person who is specifically identified and who either states that he is authorized to act on behalf of the 37 CFR 1.47(b) applicant or has a title which provides him/her with apparent authority to act on behalf of the 37 CFR 1.47(b) applicant.<sup>1</sup>

**3. Adequate Proof Of Petitioner's Proprietary Interest:**

The renewed petition includes a "Memorandum Of Law" from Mark Pospisilik, Solicitor for Fama Holdings Ltd. The memorandum concludes that "Fama Holdings Ltd. has sufficient proprietary interest in the Multiple Plate Combustor to justify filing the present application." The conclusion in the memorandum of law is based on the accompanying declaration of Mr. Aghtai, the exhibits thereto, and two Canadian court decisions. However, petitioner has not submitted copies of the Canadian court decisions, as required by MPEP § 409.03(f) (quoted in the previous decision). Petitioner must submit copies of the Canadian court decisions relied on before the Memorandum Of Law can be accepted in satisfaction of this outstanding petition requirement.

**4. Statement Of Irreparable Harm:**

The declaration of Mr. Aghtai includes the required statement that granting of the petition "is necessary to preserve the rights, of the parties or to prevent irreparable damages." This petition requirement has therefore been satisfied.

**CONCLUSION**

The renewed petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

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<sup>1</sup> It is noted that the "Declaration And Power Of Attorney" included with the renewed petition is identified as "Exhibit A" to the separate "Declaration" of Abolghassi Aghtai (president of Fama Holdings Ltd). However, Mr. Aghtai's declaration refers to the attached "Exhibit A" as a Power of Attorney document that was executed by the inventor, Dr. Movassaghi, rather than as a declaration executed by the 37 CFR 1.47(b) applicant on behalf of the nonsigning inventor.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.47(b)" and must include, as discussed above: (1) an acceptable declaration properly executed by the 37 CFR 1.47(b) on behalf of the nonsigning inventor; and (2) copies of the Canadian legal decisions which serve as the basis for the Memorandum Of Law filed herein.

Failure to provide a proper and timely response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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